



# Journal of the Senate

State of Indiana

114th General Assembly

Second Regular Session

Sixteenth Meeting Day

Tuesday Afternoon

February 7, 2006

The Senate convened at 1:54 p.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

The Senate Reader was directed to read the previously read section of the District Court's Order in *Hinrichs v. Bosma*, as set out in full in the Senate Journal of January 9, 2006.

Silent prayer followed the reading.

The Pledge of Allegiance to the Flag was led by the President of Pro Tempore of the Senate.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Becker	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Craycraft	Mishler
Delph	Mrvan
Dillon	Nugent
Drozda <input checked="" type="checkbox"/>	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Simpson
Harrison	Sipes
Heinold	Skinner
Hershman	Smith
Howard	Steele
Hume	Tallian
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 178: present 49; excused 1. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

## INTRODUCTION OF BILLS

The following bills and resolutions were read a first time by title and referred to the respective committees:

**HB 1009** — Dillon, Simpson, Lubbers (Elections and Civic Affairs)  
A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly and to make an appropriation.

**HB 1029** — Kenley, Simpson, Meeks (Appropriations)

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

**HB 1080** — Drozda, Delph, Kruse (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning health.

**HB 1098** — Landske, Rogers, Alting (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

**HB 1099** — Weatherwax, Lewis (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

**HB 1156** — Bray, Breaux (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

**HB 1172** — Drozda, Delph, Craycraft (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning health.

**HB 1250** — Landske (Commerce & Transportation)

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

**HB 1279** — Hershman, Wyss, Hume (Homeland Security, Utilities, and Public Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

**HB 1300** — Wyss, Breaux (Commerce & Transportation)

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

**HB 1307** — Harrison, Kruse, Craycraft (Pensions and Labor)

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

**HB 1347** — Lubbers, Rogers (Rules and Legislative Procedure)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

**HB 1349** — Weatherwax (Rules and Legislative Procedure)

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

**HB 1362** — Delph, Riegsecker (Governmental Affairs and Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

**HB 1368** — Meeks, Hume, Craycraft, Gard (Appropriations)

A BILL FOR AN ACT to amend the Indiana Code concerning

pensions.

**HB 1378** — Heinold, Jackman (Agriculture and Small Business)

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

**HB 1395** — Miller, Breaux (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning health.

**HB 1396** — Merritt (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning gaming and to make an appropriation.

**HB 1397** — Lawson (Ethics)

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

**HB 1414** — Delph, Long, Lanane, Simpson (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT to amend the Indiana Code concerning human and sexual trafficking.

**HB 1415** — Lawson (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

**HB 1420** — Gard, M. Young (Health and Provider Services)

A BILL FOR AN ACT to amend the Indiana Code concerning tobacco products.

**HJR 3** — Kenley, Lubbers, Meeks, Rogers (Appropriations)

A JOINT RESOLUTION proposing an amendment to Article 8 of the Indiana Constitution concerning education.

## REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that Engrossed House Bill 1367, currently assigned to the Committee on Rules and Legislative Procedure, be reassigned to the Committee on Corrections, Criminal, and Civil Matters.

GARTON

## RESOLUTIONS ON FIRST READING

### Senate Concurrent Resolution 32

Senate Concurrent Resolution 32, introduced by Senator Landske:

A CONCURRENT RESOLUTION to congratulate the Lowell High School Football Team on winning the 2005 Class 4A Football State Championship.

*Whereas, The Lowell High School Football Team overcame a slow 1-4 start, winning eight straight games to advance to the Class 4A Semistate game;*

*Whereas, The Red Devils then defeated Fort Wayne South to earn the right to play Indianapolis Roncalli in the Class 4A State*

*Championship game at the RCA Dome on Saturday, November 26, 2005;*

*Whereas, In the championship game, the Lowell Red Devils found themselves off to a slow start again, trailing 21-7 at the half. Regrouping at halftime, the Red Devils, who had worked together to overcome adversity numerous times throughout the season, rallied back in the second half;*

*Whereas, Sparked by a blocked extra point attempt in the third quarter and a momentum changing interception in the fourth quarter, the Lowell Red Devils defeated Roncalli 28-27, becoming the 2005 Class 4A State Champions;*

*Whereas, This championship marked the first State Championship Title in any sport for Lowell High School and brought the school into the spotlight throughout the state of Indiana; and*

*Whereas, The members of the Lowell High School Football Team are to be commended for their determination and outstanding achievements during the 2005 season: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly congratulates the Lowell High School Football Team on winning the 2005 Class 4A State Championship Title.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to Superintendent of the Tri-Creek School Corporation, Dr. Alice Neal; Lowell High School Principal, James Koger; and Red Devil Football Coach, Kirk Kennedy.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Kuzman.

### Senate Concurrent Resolution 33

Senate Concurrent Resolution 33, introduced by Senator Waltz:

A CONCURRENT RESOLUTION to congratulate Millard Fuller on receiving the first Servant's Heart Award presented by the People Helping People Network.

*Whereas, The People Helping People Network is an Indianapolis-based non-profit organization, established by Jeff Cardwell in 2001, to provide an avenue for people in a community to connect and make a positive difference locally;*

*Whereas, The People Helping People Network awards the Servant's Heart Award to individuals who exemplify the program's philosophy by working to meet the needs of others and making the world a better place;*

*Whereas, In 1976, Millard Fuller, along with his wife Linda, founded Habitat for Humanity International, a Christian organization established to eliminate substandard housing. Since its*

*inception, Habitat for Humanity International has built more than 200,000 homes in more than 1,700 U.S. cities and 99 other countries;*

*Whereas, In 2005, after separating from Habitat for Humanity International, the Fullers formed a new enterprise, The Fuller Center for Housing. This new organization provides funding and other support for Habitat for Humanity affiliates and other organizations working to provide decent housing for people in need worldwide;*

*Whereas, Millard Fuller has earned many accolades for his work. Professional Builder Magazine named Fuller Builder of the Year in 1995. Then in 1996, President Clinton awarded him the Medal of Freedom. In addition, both the King Center and the State of Georgia granted him the Martin Luther King, Jr. Humanitarian Award. The Fullers have also received the prestigious Harry S. Truman Public Service Award; and*

*Whereas, On October 14, 2005, the Points of Light Foundation and former President George Bush and Barbara Bush honored the Fullers with the Points of Light Volunteer Award. A plaque honoring the Fullers is positioned on the Extra Mile Pathway, a new national monument adjacent to the White House: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly congratulates Millard and Linda Fuller on receiving the Servant's Heart Award and commends them for their dedication to providing affordable housing to those in need.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Millard and Linda Fuller and Jeff Cardwell, President of the People Helping People Network.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Frizzell.

#### **Senate Concurrent Resolution 26**

Senate Concurrent Resolution 26, introduced by Senator Lubbers:

A CONCURRENT RESOLUTION honoring Steven Kirsh on receiving a 2005 Angels in Adoption award.

*Whereas, The Congressional Coalition on Adoption Institute (CCAI) provides an opportunity to all members of the U.S. Congress to honor constituents who have enriched the lives of foster children and orphans. The Angels in Adoption program is CCAI's signature public awareness program, which includes an annual event and gala in Washington, D.C.;*

*Whereas, Each member of Congress can nominate one constituent for the Angels in Adoption Program. In 2005, more than 190 members of Congress participated, making it the year's single most significant Congressional event pertaining to child welfare in the United States;*

*Whereas, Steven Kirsh, whose practice is based in Indianapolis, is the only attorney in the state of Indiana who specializes solely in adoption;*

*Whereas, Mr. Kirsh has worked with Indiana State legislators to conduct a comprehensive review of Indiana's adoption laws and regulations and has made recommendations for changes needed in order to make the process as easy and rewarding as possible for children and families. Mr. Kirsh's expertise and hard work have played an integral role in making Indiana's adoption laws and regulations the benchmark standard and national model for adoption laws across the nation;*

*Whereas, In addition to his involvement with Indiana adoption matters, Mr. Kirsh has also been very involved in promoting awareness of adoption at the national and international levels. Mr. Kirsh is an active member of the American Academy of Adoption Attorneys, where he has served as President and as a member of the Board of Trustees and currently holds the position of Treasurer. He is also a member of the official United States delegation to the drafting session of the Hague Convention on Inter-Country Adoption; and*

*Whereas, In recognition of his contributions to the field of adoption, Congressman Dan Burton nominated Steven Kirsh to receive an Angels in Adoption award for 2005: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes Steven Kirsh for his dedication and contribution to the field of adoption both in Indiana and on a national and international level and congratulates him on his receipt of the Angels in Adoption award.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Steven Kirsh.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Torr and Kuzman.

#### **House Concurrent Resolution 31**

House Concurrent Resolution 31, sponsored by Senator Howard:

A CONCURRENT RESOLUTION recognizing the Family Fun Filled Back-to-School Carnival Celebration.

*Whereas, Seven years ago Sheryl Wise began the Family Fun Filled Back-to-School Carnival Celebration in partnership with Martindale, Brightwood, and Forest Manor residents, Metropolitan School District of Perry Township, Indianapolis Public Schools, Marion County Sheriff, Indianapolis Police Department, Indiana Minority Business/Magazine, Family Fun Filled, Inc., and the stations of Radio One;*

*Whereas, The purpose of the program is to encourage parents to participate in their child's educational process, direct families and*

*kids how to access community resources, bring together community partners through collaborative efforts, and celebrate that "it does take a whole village to raise a child";*

*Whereas, To encourage parents to participate, children must bring a parent to gain admission;*

*Whereas, Sheryl Wise knows the value of parents' involvement in their children's education;*

*Whereas, In Indianapolis Public Schools, 15% of schools have no active parent groups to raise money, chaperone field trips, or lead projects;*

*Whereas, During the Family Fun Filled Back-to-School Carnival Celebration, educational resources are shared, health and wellness issues are addressed, cultural awareness is highlighted, and carnival rides and activities are available; and*

*Whereas, The Family Fun Filled Back-to-School Carnival Celebration continues to grow, thanks to the efforts of Founder, Director, and Event Coordinator Sheryl Wise, who has made children her priority: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly wishes to thank Sheryl Wise and the Family Fun Filled Back-to-School Carnival Celebration for their efforts to help our youth and their families and for bringing together the churches, schools, and community centers in this effort.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Sheryl Wise.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

#### **House Concurrent Resolution 29**

House Concurrent Resolution 29, sponsored by Senator Kruse:

A CONCURRENT RESOLUTION honoring the Monroeville Community Park Board.

*Whereas, The Monroeville Community Park Board was recently given the June Curry Trail Angel Award;*

*Whereas, The Trail Angel Award, named in honor of June Curry, the famous Cookie Lady of Afton, Virginia, refers to a "generous individual or group encountered during a bicycle tour that makes the cyclotourist's journey easier, or in some cases even possible, by helping the cyclist simply as a form of goodwill";*

*Whereas, Award winners are chosen from nominated individuals or groups who go out of their way to do something special for a*

*touring cyclist;*

*Whereas, The selection committee is comprised of the Adventure Cycling staff members and board of directors; and*

*Whereas, The Monroeville Community Park Board has displayed great kindness to cyclists: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly recognizes the acts of kindness exhibited by the Monroeville Community Park Board enabling cyclists to enjoy their journeys more.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the Monroeville Community Park Board.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

## **REPORTS FROM COMMITTEES**

### **COMMITTEE REPORT**

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1018, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

WYSS, Chair

Report adopted.

### **COMMITTEE REPORT**

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1238, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 17, delete "unit's" and insert "**units**".

Page 2, line 5, after "necessary" insert "**for the mobile support unit**".

Page 2, line 18, delete "or".

Page 2, line 19, delete "and" and insert "**or**

**(H) mental health; and**".

Page 3, line 21, after "while" insert "**the employee is**".

(Reference is to HB 1238 as printed January 20, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

WYSS, Chair

Report adopted.

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 30

House Concurrent Resolution 30, sponsored by Senator Landske:

A CONCURRENT RESOLUTION honoring Lowell High School.

*Whereas, The Lowell High School Red Devils are the 2005 Class 4A state football champions;*

*Whereas, Lowell High School fought its way back from a 13-point fourth quarter deficit to defeat three time champ Roncalli High School and win the school's first state championship by a score of 28-27 in the RCA Dome in Indianapolis;*

*Whereas, The third quarter began with a 70-yard, 15-play drive culminating in a third-and-goal touchdown from the one yard line;*

*Whereas, Roncalli responded by going 71 yards in nine plays to make it 27-14, but Lowell blocked the extra point;*

*Whereas, The Red Devils answered with a 65-yard drive to score on a 21-yard pass with 9:12 left in the game;*

*Whereas, Lowell did not punt in the entire game; perhaps it was this persistence that influenced Roncalli's decision to pass on a third-and-11 from its own 30-yard line with less than eight minutes to play and a six-point lead;*

*Whereas, Lowell intercepted the pass and scored from the 28-yard line in four plays; and*

*Whereas, The story of the Lowell High School football team is one of persistence and dedication to a goal that led this team to become one of an elite group of state championship teams: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the Indiana General Assembly congratulates the Lowell High School Red Devils on their 11-4 season and on their victory in the Class 4A state football championship and recognizes their dedication and hard work that enabled them to achieve this victory.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the members of the team, head coach Kirk Kennedy, principal Jim Koger, and superintendent Dr. Alice Neal.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

### MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate

that the House has passed House Concurrent Resolution 30 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS  
Principal Clerk of the House

### MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 28 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

### MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 31 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS  
Principal Clerk of the House

## ENGROSSED HOUSE BILLS ON THIRD READING

### Engrossed House Bill 1040

Senator Kenley called up Engrossed House Bill 1040 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning general provisions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 179: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

### Engrossed House Bill 1134

Senator Landske called up Engrossed House Bill 1134 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 180: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

### SENATE MOTION

Madam President: I move that Senator Garton be removed as cosponsor of Engrossed House Bill 1093.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Drozda be added as cosponsor of Engrossed House Bill 1150.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lubbers be added as cosponsor of Engrossed House Bill 1007.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Drozda be added as cosponsor of Engrossed House Bill 1028.

NUGENT

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Hume, Waterman, Waltz, Meeks, Bray, and Hershman be added as cosponsors of Engrossed House Bill 1028.

NUGENT

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Steele be added as cosponsor of Engrossed House Bill 1207.

WYSS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as cosponsor of Engrossed House Bill 1001.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Thursday, February 9, 2006.

GARTON

Motion prevailed.

The Senate adjourned at 2:38 p.m.

MARY C. MENDEL  
Secretary of the Senate

REBECCA S. SKILLMAN  
President of the Senate